

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ARYEH GOODMAN,

Petitioner,

v.

DAVID ORTIZ,

Respondent.

No. 20 Civ.07582-RMB

DECLARATION OF ARYEH GOODMAN

I, Aryeh Goodman, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. I am currently being detained at the Federal Correctional Institution, Fort Dix, New Jersey. I am serving a sentence of 18 months in prison, followed by one year of separated release, which was imposed on August 28, 2019 in connection with my guilty plea in *United States v. Goodman*, 19 Cr. 265 (D.N.J.) (FLW).

2. I submit this declaration upon personal knowledge in connection with Petitioner's Reply to Respondent's Answer to Petition for a Writ of Habeas Corpus. All conversations set forth in this declaration are described in sum and in substance and to the best of my recollection.

3. On May 1, 2020, I communicated with Assistant Warden Gibbs about filing a BP-9 complaint regarding the issues raised in my Petition. He told me at that time not to file a BP-9, and to let him see what he could do.

4. One week later, on May 7, 2020, I asked Assistant Warden Gibbs if he had any updates regarding this issue. He told me that there was nothing that he could do and that an administrative remedy would be a waste of time since the FSA has not been implemented yet. He

also told me that the only way I could obtain relief was in a court of law. Nevertheless, I filed a BP-9.

5. On May 29, 2020, Warden David Ortiz denied my BP-9 request for an administrative remedy.

6. I prepared a BP-10 appeal of this denial to the Regional Director of the Bureau of Prisons. A true and correct copy of that appeal is attached to this Declaration as Exhibit 1.

7. On June 10, 2020, I submitted the completed BP-10, sending it via certified mail and return receipt. As a part of that process, I attempted to sign the legal mail log book to enter the mailing of the BP-10. A Counselor attempted to prevent me from signing the log book, but eventually I was able to make an entry.

8. I subsequently received the receipt for the certified mailing. A true and correct copy of the receipt is attached as Exhibit 2 to this Declaration. The certified mail receipt shows no date of delivery and only contains the word “COVID 19” in the signature block. It is my understanding that the tracking information on the receipt indicates that it was placed into the system at Fort Dix on June 11, and that it was delivered and left with a person in Philadelphia on June 13, 2020.


9. On August 11, 2020, I received a receipt from the Northeast Regional Office indicating that my appeal was entered into the system on June 20, 2020. A true and correct copy of the receipt is attached as Exhibit 3 to this Declaration. The receipt indicates that the response for the appeal was due on July 20, 2020, more than three weeks ago.

* * * * *

I, Peter A. Gwynne, an attorney duly admitted to practice in the Southern District of New York, certify that I obtained the statements in this declaration from Aryeh Goodman by telephone on a number of occasions, including most recently on August 17, 2020. I certify that Mr. Goodman

declared under penalty of perjury that all the statements herein were true and correct to the best of his knowledge.

Executed on: August 18, 2020
New York, New York



Peter A. Gwynne

EXHIBIT 1

Federal Bureau of Prisons

6/5/2020

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Goodman, Aryeh 71509-050 5802 FCI Fort Dix
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

I am a natural born United States citizen seeking application of the federally mandated Earned Time Credits under the First Step Act of 2018 and thereby release as outlined in attached BP-229 and BP-229 by 7-5-20.

The BP-229 response by CEO David E. Ortiz regarding the Act's application of Earned Time Credits to only "be provided two years after the completion of risk and needs assessment" is a gross mischaracterization of law and congressional intent as established by:

(A) Department of Justice memo dated January 15, 2020, Office of Public Affairs. "Today is another milestone in implementing the First Step Act," said Attorney General William P. Barr. "Beginning today, inmates will have even greater incentive to participate in

[CONTINUED ON ATTACHED PAGE]

6-5-2020

DATE

[Signature]

SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL



ATTACHED PAGE

evidence-based programs that prepare them for productive lives after incarceration. This is what Congress intended with this bipartisan bill." ... "As of January 15, 2020, inmates will be assigned to participate in Evidence-Based Recidivism Reduction Programs and Productive Activities based on an initial needs assessment conducted by the BOP. Participation and completion of those assigned programs and activities can lead to placement in prerelease custody or a 12-month sentence reduction under the First Step Act."

(B) Federal Courts stated: "There is a two-year phase-in for the BOP to make programming available to all prisoners." 132 Stat. at 5209.

In conclusion, Congressional intent of the two-year phase subsection has been well established to have no bearing on the Earned Time Credits implementation date of January 15, 2020. Rather, Sec. 102(h)(2) gives the BOP a two-year finite window by which to assign and make available Evidence-Based Recidivism Reduction Programming and Productive Activities "so that every prisoner has the opportunity to participate in and complete the type and amount of Evidence-Based Recidivism Reduction Programming or Productive Activities they need." ... "In the interim, inmates will continue to be assigned to programs and activities based on their risk and needs and if eligible, will receive credit upon completion." The Court should note that the Act's §3621(h)(3) mandates that "during the two-year period described in paragraph (2)(A), the priority for such programs and activities shall be accorded based on a prisoner's proximity to release date."

Remedy: Release me by 7-5-20 according to applicable federal law so that I can go back to being a husband, father, and productive member of society.

Denying this request is further perpetuating the violation of my 14th and 5th Amendment rights and restraint of my liberty.

[See all attached documents.]

EXHIBIT 2

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

Aryeh Goodman - 71509-050
Unit #5802 (West)
PO Box #2000
Joint Base MDL, NJ 08640

USPS TRACKING#

9590 9403 0726 5196 1701 08

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature</p> <p>X COURTIS</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>North East Region U.S Customs House 7th Floor 2nd and Chestnut Streets Philadelphia, PA 19016</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7017 3380 0001 0749 0530</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>		<p><input type="checkbox"/> Priority Mail Express® <input checked="" type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>9590 9403 0726 5196 1701 08</p>		<p>Domestic Return Receipt</p>	

PS Form 3811, April 2015 PSN 7530-02-000-9053

EXHIBIT 3

RECEIPT - ADMINISTRATIVE REMEDY

DATE: AUGUST 11, 2020

FROM: ADMINISTRATIVE REMEDY COORDINATOR
NORTHEAST REGIONAL OFFICE

TO : ARYEH GOODMAN, 71509-050
FORT DIX FCI UNT: UNIT 5802 QTR: N02-211L

THIS ACKNOWLEDGES THE RECEIPT OF THE REGIONAL APPEAL
IDENTIFIED BELOW:

REMEDY ID : 1020234-R1
DATE RECEIVED : JUNE 20, 2020
RESPONSE DUE : JULY 20, 2020
SUBJECT 1 : OTHER JAIL TIME CREDIT
SUBJECT 2 :